IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1428 OF 2005

Pushp Excellency Co-operative
Housing Society Ltd. .. .. Petitioner.
Versus
Municipal Corporation of Gr. Bombay & Ors..... Respondents.

Ms. Sumedha Rao for the Petitioner.
Ms. Aruna Savla for Respondent Nos.1 to 3.

CORAM: DALVEER BHANDARI, C.J. &
S. J. VAZIFDAR, J.

DATED : SEPTEMBER 13, 2005.

P.C. :

The petitioner has filed this petition with the prayer that respondent No.3, the Assistant Assessor and Tax Collector, R/South Ward, Kandivali (West), Mumbai, be directed to quash and set aside the Warrant of Attachment dated 4th March, 2005 and notice dated 11th March, 2005.

2. Pursuant to the notice issued by this Court, respondent No.1 has filed reply. It is mentioned in the reply that the property

stands assessed in the name of M/s. Daudy Bohri Welfare Trust with effect from 1st April, 1994. It is further mentioned that the property initially was represented as large plot of land wherein subsequently 5 buildings have been constructed. It is also mentioned that all the 5 buildings, inclusive of petitioner's building, are separately assessed for the purpose of property tax.

3. In the reply, it is also incorporated that the petitioner having failed to pay the outstanding arrears of property tax, the respondents have issued Warrant of Attachment on 17th January, 2005 for recovery of the outstanding amount of property tax amounting to Rs.1,88,215/- for the period from 2002. It is mentioned that the petitioner's building is separately assessed under Ward No. R/S 691 (2a) and liable to pay outstanding property tax as demanded by the respondents. It is also mentioned that pursuant to the Court's order dated 18th March, 2005, the petitioner has deposited only Rs.1,00,000/- with the respondents and has yet to pay Rs.6,94,499/- for the period ending on 30th September, 2005.

4. The petition raises highly disputed questions of fact which cannot be decided in the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India. The petitioner against the impugned order can file appeal under Section 217 of the Mumbai Municipal Corporation Act, 1888.

5. This petition, being devoid of any merit, is accordingly dismissed. Sd/-

CHIEF JUSTICE

Sd/-

S. J. VAZIFDAR, J.